

MEMORANDUM OF AGREEMENT FOR TRANSPORTATION PLANNING ACTIVITIES BETWEEN

THE FEDERAL TRANSIT ADMINISTRATION, REGION III AND THE FEDERAL HIGHWAY ADMINISTRATION, MARYLAND DIVISION

BACKGROUND

In early 2003, a joint memorandum from Federal Highway Administrator Peters and Federal Transit Administrator Dorn proposed that the two administrations develop plans for collaboration initiatives in the transportation planning arena. As a result, Federal Highway Administration and Federal Transit Administration field and headquarters staff participated in several teleconferences and developed guidelines for a joint Federal Transit Administration and Federal Highway Administration national Memorandum of Agreement (MOA). This effort established a mechanism through which the Federal Transit Administration Region III Office (hereinafter refer to as FTA–Region III) and the Federal Highway Administration Maryland Division (hereinafter refer to as FHWA–MD) can further improve coordination in implementing program oversight activities and increase efficiency in delivering service to our customers and partners. The national MOA efforts have been used as a framework for the development of this MOA between the FTA–Region III and the FHWA–MD in the State of Maryland.

PURPOSE OF THIS AGREEMENT

This is to document agreement between FTA–Region III and FHWA–MD on explicit roles at the program and office level for each agency in carrying out metropolitan and statewide planning activities to preclude redundancy and identify accountability for external customers.

FTA–Region III and FHWA–MD mutually agree to the following procedures for transportation planning activities in the state of Maryland.

- Transportation Planning Process Certification
- Air Quality Conformity Reviews and Determinations
- Unified Planning Work Program Review and Approval
- State Transportation Improvement Program Review and Approval
- Statewide and Metropolitan Planning Findings
- Planning and Program Coordination Meetings
- Environmental Streamlining
- Congestion Mitigation and Air Quality Program Eligibility
- The 3–C Planning Process (*Cooperative, Continuous and Comprehensive*)
- Meeting Attendance and Representation
- Civil Rights Program Management
- Consolidated Planning Grant and Flex Funding Procedures

The agreement will be evaluated on a basis no less frequently than biennially to ensure that the terms of the MOA meet the needs of all parties.

TRANSPORTATION PLANNING PROCESS CERTIFICATION

BACKGROUND:

The Transportation Efficiency Act for the 21st Century (TEA-21) requires a joint FHWA/FTA certification of transportation planning process for all Transportation Management Areas (TMAs) at least every three years. A joint certification review along with other documentation and site visits is the basis used for determining that the transportation planning process in a TMA meets or substantially meets the requirement of 23 CFR Part 450 and 49 CFR Part 613.

PROCEDURES :

Activities included in the TMA certification review process:

- Establish the review team
- Assess outcome of past reviews
- Desk audit
- Identify team member responsibilities
- Prepare an agenda
- Site visit
- Public meeting
- Closeout meeting
- Prepare and circulate draft report
- Present final report
- Follow up on recommendations and corrective actions

ROLES AND RESPONSIBILITIES :

The team shall consist of staff from FHWA–MD Division, FTA–Region III, and if necessary other technical expertise from other Division or Region offices, Headquarters, Resource Center, and EPA.

The FHWA–MD and FTA–Region III planners shall share responsibilities for the logistics of reviews. This includes establishing schedules, obtaining the material for the desk audit, completion of the desk audit, notifying participants, and preparing the agenda.

FTA–Region III and FHWA–MD planners shall share responsibilities for leading the topics during the review and the closeout after the review.

The FHWA–MD shall be the lead for closeout after the review, writing the report, circulating it to the other federal team members for comment and to the MPO, transit operators, DOT and other participants for factual verification.

FHWA–MD shall also take the lead in coordinating any corrective actions, recommendations and noteworthy practices from the Federal team.

Should the team identify a corrective action, FHWA–MD shall schedule a meeting or teleconference with the team members and any other appropriate entities to discuss the proposed action by the review team and to establish time frames for the MPO to correct the action.

FHWA–MD shall also be the lead in coordinating responses to any public comments and distributing the final report to all participants in the review, including those participants from the public.

Certification of the TMA will be by the FTA Regional and the FHWA Division Administrators. The FHWA Division Administrator and the FTA Regional Administrator will do formal presentation of the final certification report to the MPO policy committee jointly.

FOLLOW UP ON CORRECTIVE ACTIONS RESULTING FROM CERTIFICATION REVIEW:

FHWA–MD shall take the lead in setting up a follow-up meeting with the MPO and FTA Region III prior to the expiration of the time limit given to correct the corrective actions.

Based on the nature of the corrective action, FHWA–MD or FTA–Region III shall take the lead in asking questions and reviewing the status of the action to address the corrective action.

FHWA–MD shall write a joint letter within two weeks of the follow-up meeting documenting the results of the meeting and whether the corrective actions have been resolved by the MPO.

AIR QUALITY CONFORMITY REVIEWS AND DETERMINATIONS

BACKGROUND:

Section 176 (c) of the Clean Air Act establishes conformity requirements for the Long Range Transportation Plan (LRP), Transportation Improvement Program (TIP), and projects in area designated as non-attainment or maintenance. Section 176 (d) of the Clean Air Act established priority requirements for programs supported by the Federal government in order to provide for timely implementation of eligible portion of air quality plans. Section 109 (j) of 23 USC established consistency requirement to assure that highways are consistent with approved plans for air quality.

PROCEDURES :

Activities included in the conformity determination process:

- Approvals
- Conduct reviews for long range transportation plans and TIPs
- Meetings

ROLES AND RESPONSIBILITIES :

FTA–Region III, FHWA–MD and EPA–Region III will receive copies of LRP and TIP from the MPO for concurrent conformity reviews.

EPA–Region III will be given 30 days for review and comment.

FHWA–MD will be responsible for coordinating approval action on conformity determinations.

FTA–Region III staff shall advise the FHWA–MD of any concerns within 30 days of receipt of the documents.

FTA–Region III or FHWA–MD will initiate a meeting or teleconference, depending on the impact of the concern on either transit or highways, to discuss and resolve any comments or concerns that arise during the review of the document.

FHWA–MD and FTA–Region III will meet or teleconference with EPA–Region III, as necessary, to resolve pertinent comments that may result from their review. FHWA Resource Center and FTA Headquarters personnel may also participate in the meetings(s) or teleconference, as necessary. When requested, FHWA Resource Center and FTA Headquarters personnel will engage in a review of the conformity determination and provide assistance during conformity reviews in order to expedite the process.

Upon receipt of a concurrence letter from EPA–Region III, FHWA–MD and FTA–Region III will make a conformity finding.

FHWA–MD will prepare a joint FHWA–MD/FTA–Region III letter issuing the conformity finding that will be signed by the FTA–Region III–Administrator and the FHWA–MD Division Administrator.

FHWA–MD staff will forward the signed conformity finding letter to appropriate parties.

A joint conformity finding will be issued within 60 days of receipt of the documents.

UNIFIED PLANNING WORK PROGRAM REVIEW AND APPROVAL

BACKGROUND:

23 CFR 450.314 identifies the requirements for unified planning work programs (UPWPs) to be prepared in TMAs. MPOs are required to develop the UPWPs in cooperation with the State and public transit agencies. In TMAs, the MPO(s) in cooperation with the State and operators of publicly owned transit shall develop UPWPs. In areas not designated as TMAs, the MPO in cooperation with the State and transit operators, with the approval of the FHWA and the FTA, may prepare a simplified statement of work, in lieu of a UPWP, that describes who will perform the work and the work that will be accomplished using Federal funds.

PROCEDURES :

UPWPs will be reviewed to support funding sought for federal assistance within a metropolitan area.

ROLES AND RESPONSIBILITIES :

All UPWPs will be submitted by MDOT to both FHWA–MD and FTA–Region III, concurrently. For non-TMAs MDOT will provide eligibility guidance and monitor work activities to assure that work is being managed and performed satisfactorily and that time schedules are being met.

TMA

Upon receipt of the draft UPWP, FTA–Region III will contact FHWA–MD to initiate a 45 day review period.

FHWA–MD will initiate, if appropriate, a meeting to discuss and resolve any significant concerns relevant to the draft document.

The response will be issued as a joint FTA–Region III/FHWA–MD letter

FTA–Region III will prepare the letter for FHWA–MD and FTA–Region III signatures.

Upon receipt of the final UPWP, FTA–Region III will contact FHWA–MD to ensure that all comments have been addressed.

FHWA–MD will initiate, if necessary, a meeting to discuss and resolve any comments not addressed in the final document.

FTA–Region III will prepare a joint final approval letter of the UPWP and distribute the signed letter to the state and MPO.

**STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM REVIEW
AND APPROVAL**

BACKGROUND:

Section 135 of Title 23 U.S.C. establishes Federal requirements for statewide transportation planning. Final rules/regulations for implementing these requirements were published in the October 28, 1993 Federal Register. The regulations, 23 CFR 450 and 49 CFR 613, require that at least every two years the State will submit their proposed STIP to the FHWA and the FTA for joint approval prior to the obligation of Federal funds made available to the State under Title 23 and the Federal Transit Act. These regulations also require that the State include with their proposed STIP a certification that the transportation planning process is being carried out in accordance with the requirements listed in the regulations.

PROCEDURES :

Activities included in the STIP review and approval process:

- FTA and FHWA will review our respective portions of the STIP. Where feasible, this review, wholly or partially, should be performed together, side by side.
- The joint review will include a review of the requirements on air quality conformity, public involvement, fiscal constraint, Title 23 and Federal Transit Act funded projects and the State's self certification of compliance with requirements of section 450.220(a)

ROLES AND RESPONSIBILITIES :

STIP REVIEW & APPROVAL

The State will submit a draft STIP to the FHWA–MD and FTA–Region III for concurrent review.

FHWA–MD will take the lead for conducting a 60-day review of the draft STIP and a 30-day review of the final STIP.

If necessary, FTA–Region III or FHWA–MD will call a meeting during the review period to discuss and resolve any concerns about the draft STIP. Any comments regarding concern about joint approval of the STIP will be communicated to the State in writing during the review period.

The State will submit their proposed STIP adopted by the Maryland General Assembly to the FHWA–MD and FTA–Region III for approval.

The FTA Region Administrator and the FHWA Division Administrator will take joint action as described by 23 CFR 450.220.

A draft action letter will be prepared by the FHWA Division Office and sent to the FTA Regional Office for coordination. FHWA–MD will prepare notification of action and FTA–Region III and FHWA–MD will sign the joint letter.

The signed letter will be forwarded to the State by FHWA–MD.

STIP AMENDMENT

The agency involved (FTA–Region III or FHWA–MD) in any major amendments to the approved STIP, depending on the type of project(s) involved in the amendment, shall have signature authority to approve the amendment.

Should an amendment contain a mix of projects requiring approval from both FTA–Region III and FHWA–MD, the procedures for the STIP approval shall be followed.

All efforts should be made to approve STIP amendments within 3 weeks of receiving the amendment from the State.

Upon approval, a copy of the amendment action shall be provided by the approving agency to the other agency and the State for their information and/or action.

Should an amendment adversely affect plans by FTA–Region III or FHWA–MD to flex funding, then the process described above for the joint review/approval of the STIP will be followed for the amendment. The FTA Regional Administrator and FHWA Division Administrator will take joint approval action in this case.

STATEWIDE AND METROPOLITAN PLANNING FINDINGS

BACKGROUND:

Section 135 of Title 23 USC established Federal requirements for statewide transportation planning. Regulations for implementing these requirements were published in the Federal Register on October 28, 1993. The regulations, 23 CFR 450 and 49 CFR 613, require that at least every two years the State will submit their proposed STIP to FTA and FHWA for joint approval prior to the obligation of Federal funds made available to the State under Title 23 and the Federal Transit Act, as amended. These regulations also require that the State include with their proposed STIP a certification that the transportation planning process (metropolitan and as well as statewide) is being carried out in accordance with the joint planning regulations.

23 CFR 450.320 and 49 CFR 613 require a joint Federal finding that each metropolitan planning area is following a continuing, comprehensive transportation planning process carried on cooperatively by the State, MPO and transit operator(s). These findings shall be based on the self-certification by the State and the MPO under 23 CFR 450.334 and 49 CFR 613 and upon other reviews as deemed necessary by FHWA–MD and FTA–Region III.

PROCEDURES :

The review(s) shall cover, but shall not be limited to:

- the State/MPO self-certification (acceptability of the State’s certification that the transportation planning process is being carried out in accordance with all applicable requirements),
- the locally approved Transportation Plan,
- the public involvement process,
- the financial plan,
- inclusion of all Title 23 and Federal Transit Act funded projects,
- the relationship of projects in the TIP to the Transportation Plan,
- air quality conformity of transportation plans and the TIP.

FHWA–MD and FTA–Region III will evaluate each metropolitan planning process based on, but not limited to, previous reviews, attendance at meetings and review of the UPWPs.

ROLES AND RESPONSIBILITIES :

MDOT will annually submit the proposed STIP to FHWA–MD and FTA–Region III.

Every other year, upon receipt of the draft STIP, FHWA–MD shall be the lead in initiating the statewide planning finding.

FHWA–MD and FTA–Region III shall conduct a concurrent review of the STIP.

FHWA–MD and FTA–Region III will meet, video, or teleconference as necessary to discuss and resolve any comments relevant to the joint finding.

FHWA shall prepare official documentation of the basis for the FHWA/FTA planning finding. This summary of the finding will be included as an attachment to the STIP approval letter.

A draft STIP action letter will be prepared by FHWA–MD and sent to FTA–Region III for signature.

FHWA–MD will distribute the jointly signed STIP action letter, with accompanying planning finding documentation, to the appropriate parties.

Non-TMA

FHWA–MD will initiate a joint transportation planning process review of non-TMA areas that will be conducted by FHWA/FTA every other year.

PLANNING AND PROGRAM COORDINATION MEETINGS

PROCEDURES :

Activities included in the planning and program coordination process:

- Scheduling of quarterly meetings
- Selection of agenda topics
- Coordination with the State, MPOs, and transit operators

ROLES AND RESPONSIBILITIES :

On the first business day of each quarter, representatives from FHWA–MD and FTA–Region III shall meet to discuss perceived issues and an agenda for the coming quarter.

FHWA–MD shall take the lead in typing minutes for the first and third quarterly meetings. FTA–Region III will lead the second and fourth meetings.

Items to be discussed shall include: planning issues and the agenda for each MPO, flex funds status, funding for projects that may have cross cutting issues such as intermodal terminals and transportation enhancements, the identification of corridors for which multi-modal planning may be warranted, and status of and funding for multi-modal corridor studies.

ENVIRONMENTAL STREAMLINING

BACKGROUND:

Section 1309 of the Transportation Equity Act for the 21st Century (TEA-21) mandated Environmental Streamlining as the timely delivery of transportation projects while protecting and enhancing the environment. Environmental Streamlining requires transportation and natural, cultural, and historic resource agencies to establish realistic timeframes for transportation and environmental resource agencies to develop projects, and then to work cooperatively to adhere to those timeframes.

PROCEDURES :

Activities included in the environmental streamlining process:

- Approvals
- Meetings
- Interagency coordination (Federal Review Agencies)
- Coordination with the State

ROLES AND RESPONSIBILITIES :

Both FHWA–MD and FTA–Region III shall be supportive of each other’s environmental streamlining efforts.

FHWA–MD and FTA–Region III will identify and articulate permitting issues with the resource agencies within our jurisdictions early on in the planning process. Further, such permitting and resource agencies will be encouraged to respond to NEPA documents in a timely manner.

When applicable, FHWA–MD and FTA–Region III will agree to be a cooperating agency on each other’s projects upon request by the lead agency. In such situations, early coordination will be accomplished to identify all possible areas of concern and to agree upon the utilization of appropriate environmental measures.

CONGESTION MITIGATION AND AIR QUALITY PROGRAM ELIGIBILITY (CMAQ)

BACKGROUND:

To assist in meeting statutory obligations, States are required to prepare annual reports for FHWA, FTA, and the general public that specify how CMAQ funds have been spent and the expected air quality benefits. Annual reporting enhances accountability and the annual report enables FHWA and FTA to be responsive to the Congress on the utilization of CMAQ funds and their impact.

PROCEDURES :

Activities included in the CMAQ process:

- Approvals
- Agency coordination (local, state, federal)
- Meetings

- Annual review of the State's CMAQ program

ROLES AND RESPONSIBILITIES :

Both FTA–Region III and FHWA–MD shall be pro-active with the planning partners in nonattainment areas to encourage the optimization of CMAQ funding. To this end, both parties shall encourage projects that have a direct pollution reduction benefit and which reduce VMT.

FHWA–MD will receive a list of all the new CMAQ projects with their calculated emissions benefits proposed for inclusion in the next STIP from MDOT. This list will be provided to FTA–Region III and EPA–Region III for review.

FHWA–MD shall contact FTA–Region III and EPA–Region III to initiate a 2-week review of the proposed projects.

FTA–Region III shall review all proposed transit projects and FHWA–MD shall review all other projects, and EPA shall review the emissions calculations for all proposed projects.

FTA–Region III shall email FHWA–MD of any problems with the transit projects in the proposed list.

FHWA–MD shall prepare a letter for joint signature regarding the eligibility of the proposed projects to be funded with CMAQ funds in the STIP.

FHWA–MD shall distribute the letter to the state air quality partners and the appropriate MPOs.

COORDINATION OF THE 3-C PLANNING PROCESS (Cooperative, Continuous and Comprehensive)

BACKGROUND:

Section 135(4) of Title 23 USC established Federal requirements for the 3-C process. “The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.”

PROCEDURES :

Activities included in the 3-C process:

- Interagency coordination
- Meetings

ROLES AND RESPONSIBILITIES :

FTA–Region III and FHWA–MD shall stress the need for multi-modal corridor planning to MDOT and the MPOs and encourage public involvement, agency representation, and interagency coordination.

FTA–Region III and FHWA–MD shall encourage a planning process that is open, and inclusive.

FTA–Region III and FHWA–MD shall attempt to be impartial in dealing with multiple planning partners and competing transportation modes. The 3–C planning process shall be reviewed tri–annually in the TMA areas through the certification review process and when needed for the other MPOs in Maryland.

CIVIL RIGHTS PROGRAM MANAGEMENT

BACKGROUND:

The purpose of the following laws, regulations, and executive orders prescribe the mandates and guidance relative to the implementation of civil rights program management in the areas of Title VI, Environmental Justice, Public Involvement, Limited English Proficiency, Disability, and Accessibility on Federal and Federal-aid Projects:

- *Title VI Civil Rights Act of 1964*
- *Title VI Civil Rights Restoration Act of 1987*
- *Section 504 of the Rehabilitation Act of 1973*
- *49 CFR Part 21*
- *23 CFR Part 200*
- *Executive Order 12898 (Environmental Justice/Public Involvement)*
- *Executive Order 13166 (Limited English Proficiency-LEP)*
- *Americans with Disabilities Act (ADA) of 1990*

PROCEDURES :

Activities included in the planning and civil rights program management process:

- Review of programs, projects, plans and grants
- Interagency coordination
- Meetings

ROLES AND RESPONSIBILITIES :

FHWA–MD and FTA–Region III will jointly review compliance with civil rights requirements for federal aid and federal aid projects when approving project and system level plans, state and metropolitan area programs, and the consolidated planning grant.

FHWA–MD and FTA–Region III planners will consult with their respective civil rights offices for comment on civil rights requirements related to approval of plans, projects, programs and grants. Either FTA–Region III or FHWA–MD will initiate a meeting with the other agency to discuss and resolve any significant concerns.

MEETING ATTENDANCE AND REPRESENTATION

PROCEDURES :

Meeting attendance and representation shall include, but not be limited to:

- Meeting attendance
- E-mail notifications
- Follow-up responses

ROLES AND RESPONSIBILITIES :

FHWA–MD planner shall attend MPO meetings and notify FTA–Region III planner of transit issues that arise via email, teleconference or fax. FTA–Region III shall attend MPO meetings as funding permits.

FHWA–MD planner shall attend Inter-Agency Consultation (ICG) meetings and FTA–Region III planner shall participate in ICG meeting via teleconference when travel is not possible.

CONSOLIDATED PLANNING GRANT (CPG) and FLEX FUNDING PROCEDURES PROCESS

PROCEDURES :

Activities included in the CPG and Flex Funding procedure process:

- FMIS activity – transfer of funds from FHWA to FTA or from FTA to FHWA
- Approvals
- Meetings
- Interagency coordination (State and Federal)

ROLES AND RESPONSIBILITIES :

During the quarterly planning and programming coordination meetings, FTA–Region III and FHWA–MD will discuss the status of the Consolidated Planning Grant and other flex funding activities. This discussion shall include the status of funds in the transfer process, those funds which have been flexed and which are awaiting FTA–Region III approval, and the status of funds that have been flexed and awarded by FTA–Region III.

FTA–Region III shall maintain an official Flex File Record and disseminate funds to appropriate entities.

FTA–Region III shall, to the best of its ability, encourage the timely implementation of projects involving flex funding.

This agreement shall remain in effect indefinitely unless terminated by either party upon a thirty-day written notice to the other party. Either party to this MOA may request that it be amended, whereupon the parties will consult to consider such amendment. This MOA goes into effect with signature and date of both parties.

Herman C. Shipman
Acting Regional Administrator
Federal Transit Administration
Region III

Nelson Castellanos
Division Administrator
Federal Highway Administration
Maryland Division

Date

Date